

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

Case No. A-5583

PETITION OF GINA AND PAUL GAMBLE  
(Hearing held May 16, 2001)

OPINION OF THE BOARD  
(Effective Date of the Opinion, July 20, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(b)(2). The petitioners propose to construct a one-story addition that requires a four (4) foot variance as it is within sixteen (16) feet of the rear lot line. The required setback is twenty (20) feet.

Gina Gamble, the petitioner, appeared at the public hearing.

The subject property is Lot 33, Block 5, Chevy Chase Section 5, located at 3 Leland Court, Chevy Chase, Maryland, in the R-60 Zone, (Tax Account No. 00578666).

Decision of the Board: Requested variance **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct a one-story addition at the northwest corner of the residence.
2. The petitioner testified that the property is an oddly shaped, shallow lot located on a cul-de-sac. The petitioner testified that the shape of the property precludes new construction in the front and side yards. See, Exhibits 4 and 8.
3. The petitioner testified that the one-story addition would be built on a portion of the existing deck and that the addition would be screened by the existing shrubbery and vegetation shown in Exhibits 5(a) through 5(e).

FINDINGS OF THE BOARD

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 of the Zoning Ordinance as follows:

- (a) *By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict applications of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the shallowness and odd shape of the lot are conditions unique to the property and that these conditions would result in an undue hardship and practical difficulties for the property owners.

- (b) *Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the variance requested for the one-story addition is minimum reasonably necessary to overcome the property's unique conditions.

- (c) *Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The Board finds that the one-story addition would continue the residential use of the property and the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

- (d) *Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The Board finds that the proposed addition will not be detrimental to the use and enjoyment of the neighboring properties and would be screened by the shrubbery and vegetation. The record contains no testimony or correspondence in opposition to the petition.

Accordingly, the requested variance of four (4) feet from the required twenty (20) foot rear lot line setback is for the construction of a one-story addition is granted subject to the following conditions:

1. The petitioner shall be bound by all of her testimony and exhibits of record, to the extent that such evidence and representations are identified in this Opinion.
2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4 and 7(a) through 7(h).

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Angelo Caputo, seconded by Louise Mayer, with Donna L. Barron, Mindy Pittell Hurwitz, and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution.

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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing  
Opinion was officially entered in the

Opinion Book of the County Board of  
Appeals this 20th day of July, 2001

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Katherine Freeman  
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date for the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.